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Filed : September 29, 2003

### REMARKS

This paper is filed in response to the June 16, 2008 Office. Claims 21 and 29 have been amended to clarify the invention. The original specification supports for the amendments, and therefore no new matter has been added. Upon the entry of the amendments, Claims 21, 24-32 and 34-40 are pending in this application. Applicants respectfully request the entry of the amendments and reconsideration of the application in view of the above amendments and the following remarks.

#### Discussion of Rejection Under 35 U.S.C. § 103

The Office Action rejected Claims 21, 24-32 and 34-40 under 35 U.S.C. § 103 (a) as being unpatentable over Rajakarunanayake et al (US Patent No. 6,810,413, hereinafter “Rajak”) in view of Agraharam et al (US 200/0012304, hereinafter “Agraharam.”) The Office Action asserted that Rajak teaches substantial features of the claims. While acknowledging that Rajak fails to teach the claimed feature of determining whether the local DSL device supports multicasting, the Office Action asserted that the claim feature of determining is well known in the art and would have been obvious modification of Rajak’s teachings. Applicants respectfully disagree with the Office Action and submit that the claims are patentable over the references. As discussed below in greater detail, Rajak fails to teach the claimed features as asserted in the Office Action and Agraharam fails to provide the deficiencies of Rajak.

#### Standard for Obviousness Rejection

The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. M.P.E.P. 2142. If the examiner does not produce a *prima facie* case, the Applicants are under no obligation to submit evidence of nonobviousness. *Id.* With regard to rejections under 35 U.S.C. 103, the examiner must provide evidence which as a whole shows that the legal determination sought to be proved (i.e., the reference teachings establish a *prima facie* case of obviousness) is more probable than not. *Id.*

#### Disclosure of Rajak

**Rajak** discloses systems and methods for Internet content delivery using wireless and wire technologies. *Rajak* Col. 2, lines 64-67. For the Examiner’s convenience, Figure 3 of *Rajak* is reproduced below.

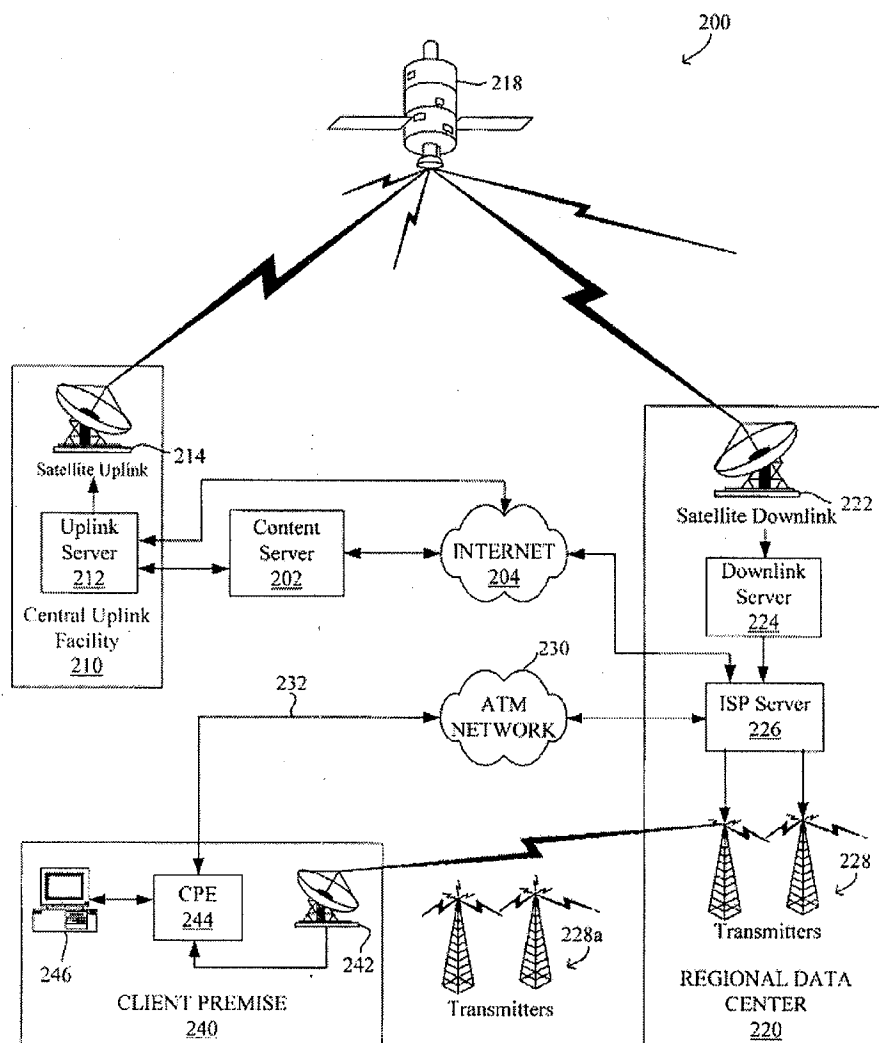


FIG. 3

*Rajak's* Internet content delivery system includes a content server 202, a central uplink facility 210, a satellite 218 and a regional data center 220. When an Internet content is requested by the end user terminal 246, the content is supplied to the regional data center 220 via either wireless or wired connection. In the wireless connection, the central uplink facility 210 uplinks the Internet content to a satellite 218. *Rajak* Col. 5, lines 1-30. *Rajak's* satellite broadcasts the Internet content to a regional data center 220. *Rajak* Col. 7, lines 34-51. In the wired connection, the Internet content is sent to the regional data center 220 via the Internet.

*Rajak* teaches that the delivery of the Internet content from the regional data center 220 to the end user terminal 246 can also be via either wired or wireless connection. Thus, the regional data center 220 determines whether the Internet content is to be delivered to the end user terminal

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246 **via wired or wireless** connection. *Rajak* Col. 10, lines 55-60 (step 508); Col. 9, lines 36-18; Col. 8, lines 63-66; Col. 6, lines 66-67. *Rajak's* client premise 240 includes a client premise equipment (CPE) 244, the end user terminal 246, and optionally a wireless receiver 242. *Rajak* Col. 3, lines 5-24. The regional data center 220 can determine to deliver the Internet content via wired connection if the client premise 240 does not have a wireless receiver. Also, the regional data center 220 can determine to deliver the Internet content via wireless connection if the data requires a large bandwidth to transmit such as streaming multimedia data, thereby reducing the traffic in the ATM network 230. In the wireless transmission, the regional data center 220 sends the Internet content to the transmitters 228 only one time. Then, the transmitters 228 wirelessly retransmit the Internet content to many end users who attempt to access the same content.

The Office Action asserted at page 3 that "the end user terminal 246 or client premise equipment 244" of *Rajak* teaches the claimed feature of "the user terminal." Also, the Office Action asserted that "the DSL link 232" of *Rajak* teaches the claimed feature that "the DSL network comprises a local DSL device linking between the Internet and the user terminal." Applicants acknowledge these assertions of the Office Action while reserving potentially different interpretations of the claimed recitations and *Rajak's* teachings.

#### Rajak Fails To Teach Claimed Features Relating to Multicast Box

The Office Action at page 3 asserts that *Rajak* teaches the claimed features relating to the multicast box in *Rajak's* Figure 3, column 5, lines 52-65, and column 10, lines 6-31. However, the Office Action provided no specific comments about which component of *Rajak* corresponds to the claimed multicast box or about which actions of *Rajak* corresponds to those of the claimed multicast box. The text of *Rajak's* referenced sections appears to provide nothing corresponding to the claimed features of the multicast box.

According to independent Claims 21, 29 and 35, **the multicast box is configured to relay data for the desired content from the content providing server to the user terminal and is not for providing the user terminal with an Internet connection.** Referring to Figure 3 of *Rajak*, no component appears to have the claimed features relating to the multicast box. *Rajak's* ISP server 226, ATM network 230, the communication line 232, client premise equipment (CPE) 244 cannot qualify for the claimed multicast box because they participate in providing the user terminal 246 or 244 with an Internet connection. Thus, the following discussion is now directed

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to whether the remaining components of Rajak's Figure 3 (satellite uplink 214, uplinked server 212, central uplinked facility 210, satellite 218, satellite downlink 222, downlink server 224, transmitters 228 and regional data center 220) can qualify for the multicast box as defined in Claims 21, 29 and 35.

Claims 21 and 29 recite the feature of receiving, by the user terminal, a command from the content providing server for directing the user terminal to **the multicast box**. The components 210, 212, 214, 218, 220, 222, 224 and 228 cannot qualify for the claimed multicast box either because Rajak's user terminal 244 or 246 receives no command from the content server 202 for directing the user terminal to any of these Rajak's components 210, 212, 214, 218, 220, 222, 224 and 228.

Claim 21 and 29 recite the feature of communicating, by the user terminal, with **the multicast box** according to the command from the content providing server. Rajak's components 210, 212, 214, 218, 220, 222, 224 and 228 cannot qualify for the claimed multicast box because Rajak's user terminal 244 or 246 does not communicate with these components according to the command from its content server 202.

Claim 21 recites the feature of receiving, by the user terminal, a command from **the multicast box** to communicate with the local DSL device. Rajak's components 210, 212, 214, 218, 220, 222, 224 and 228 cannot qualify for the claimed multicast box because Rajak's user terminal 244 or 246 receives no command from any of these components to communicate with Rajak's local DSL device.

Claim 35 recites the feature of communicating, by the multicast box, with the first user terminal so as for the first user terminal to verify whether a local DSL device supports multicasting. Rajak's components 210, 212, 214, 218, 220, 222, 224 and 228 cannot qualify for the claimed multicast box because none of these components communicate with Rajak's user terminal 244 to 246 to verify whether a local DSL device supports multicasting.

Claim 35 further recites the feature of receiving, by the multicast box from the first user terminal, information indicative of whether the local DSL device supports multicasting. Rajak's components 210, 212, 214, 218, 220, 222, 224 and 228 cannot qualify for the claimed multicast box because none of these components receives information indicative of whether the local DSL device supports multicasting.

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As discussed above, Rajak fails to teach substantial features of Claims 21, 29 and 35. Moreover, Rajak teaches no scheme, system or method that needs or relates to a multicast box or an equivalent thereof, to which a user terminal is directed when a user terminal request content from a content providing server and with which the user terminal communicates for determining multicasting capability of a local DSL device. Without any teachings of this concept, Rajak cannot be said to teach substantial features of Claim 21, 29 or 35.

Rajak Fails To Teach Claimed Features Relating to Local DSL Device

The Office Action at page 3 asserts that Rajak teaches the claimed features relating to the local DSL device in Rajak's Figure 3; column 5, lines 52-65; column 8, lines 36-62; and column is 10, lines 6-31. However, the text of Rajak's referenced sections does not provide any teachings relating to the claimed features of the local DSL device.

According to Claims 21, 29 and 35, the local DSL device links between the Internet and the user terminal. In Rajak's Figure 3, ISP server 226, ATM network 230, the wired communication line 232 and consumer premise equipment 244 appear to be involved in linking between the Internet and the user terminal 244 or 246.

Claim 21 recites the features of receiving, by the user terminal, a command from the multicast box to communicate with the local DSL device so as to obtain information for use in determining whether the local DSL device supports multicasting. However, Rajak does not teach that the user terminal 244 or 246 receives a command from the multicast box to communicate with any of these Rajak's components 226, 230, 232, 244 that are involved in linking between the Internet and the user terminal 244 or 246.

Claim 21 recites the features of communicating with the local DSL device, by the user terminal, to receive a response from the local DSL device for use in determining whether the local DSL device supports multicasting. However, Rajak does not teach that the user terminal 244 or 246 communicates with any of Rajak's components 226, 230, 232, 244 to receive a response for use in determining whether these references components support multicasting.

Claim 29 recites the features of determining, by the user terminal, whether the data is available for multicasting at the local DSL device. However, Rajak does not teach its user terminal 244 or 246 conducts any act of determining whether certain data is available for multicasting at any of its devices that link between the user terminal 244 or 246 and the Internet.

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Claim 35 recites the features of communicating, by the multicast box, with the first user terminal so as for the first user terminal to verify whether a local DSL device supports multicasting. However, Rajak fails to teach that any of its devices communicate with the user terminal 244 or 246 so as for the user terminal to verify its DSL device supports multicasting.

Claim 35 recites the features of receiving, by the multicast box from the first user terminal, information indicative of whether the local DSL device supports multicasting. However, Rajak fails to teach that information indicative of whether it's a DSL device supports multicasting is received.

#### Agraharam Fails To Remedy Deficiencies Of Rajak

**Agraharam** was relied on in the Office Action to remedy the Office Action's admitted deficiency of Rajak that Rajak fails to teach the claimed feature of determining whether the local DSL device supports multicasting. Specifically, the Office action asserted that that claim feature is well known in the art and would have been obvious modification of Rajak's system as Agraharam teaches a DSL device that supports multicasting.

Agraharam discloses multimedia communications between end users default an ATM-ADSL access system. Agraharam's multimedia communications use devices that support multicasting. The fact that Agraharam's multimedia communications use devices capable of multicasting does not amount to the claimed feature of determining whether a local DSL device supports multicasting. In fact, Agraharam is not concerned about determining whether the DSL device supports multicasting and does not need to determine whether the DSL device supports multicasting because it does support multicasting. Further, Agraharam does not teach or suggest any "communication by a user terminal with a local DSL device" leading to determining whether the local DSL device supports multicasting. As such, the Office Action's assertion by itself does not amount to the Office Action's admitted deficiency of Rajak.

Moreover, Agraharam totally fails to teach the additional deficiencies of Rajak. In other words, Agraharam does not provide any teachings relating to the claimed feature of the multicast box and related actions recited in Claims 21, 29 and 35. Nor does Agraharam provide teachings relating to the DSL device and related actions recited in Claim 21, 29 and 35.

Furthermore, *arguendo*, even if Agraharam teaches the claimed feature of determining whether the DSL device supports multicasting, such teaching would not motivate one of ordinary

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skill in the art to modify Rajak's teachings to arrive in Claim 21. This is because, among other reasons, neither Rajak nor Agraharam is concerned about a situation where it is not known whether a local DSL device supports multicasting when data is to be delivered to one or more user terminals via the local DSL device. Accordingly, neither Rajak nor Agraharam is concerned about providing a new mechanism for delivering data to one or more user terminals via the local DSL device when it is not known whether the local DSL device supports multicasting. As such, teachings of Rajak and Agraharam in combination are alone are not sufficient to motivate one of ordinary skill in the art to modify Rajak in a direction toward the claimed invention even if there are additional teachings in the priority art that remedy the deficiencies of Rajak.

#### No *Prima Facie* Obviousness Has Been Established

For the reasons stated above, Applicants respectfully submit that Claims 21, 29 and 35 or individually patentable over *Rajak* and Agraharam. Claims 24-28 depend from Claim 21 and define additional technical features. Claims 30-32 and 34 depend from Claim 29 and define additional technical features. Claims 36-40 depend from Claim 35 and define additional technical features. In view of the patentability of Claims 21, 29 and 35 and in further view of the additional technical features, Claims 24-28, 30-32, 34 and 36-40 are also patentable over *Rajak* and Agraharam.

#### Dependent Claims

Although Applicants have not addressed all the issues of the dependent claims, Applicants respectfully submit that Applicants do not necessarily agree with the characterization and assessments of the dependent claims made by the Examiner, and Applicants believe that each claim is patentable on its own merits. Applicants respectfully submit that pursuant to 35 U.S.C. § 112, ¶4, the dependent claims incorporate by reference all the limitations of the claim to which they refer and include their own patentable features, and are therefore in condition for allowance. Therefore, Applicants respectfully request the withdrawal of all claim rejections and prompts allowance of the claims.

#### No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicants are not conceding in this

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application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.



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### CONCLUSION

Applicants have endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. Accordingly, arguments in support of the patentability of the pending claim set are presented above.

In light of the above remarks, reconsideration and withdrawal of the outstanding rejections is respectfully requested. If the Examiner has any questions which may be answered by telephone, he is invited to call the undersigned directly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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Dated: \_\_\_\_\_

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